THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 9865 of 2007

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

Heard the learned counsel for the petitioners and the learned Government Pleader for Services-I.

The present writ petition is filed against the orders passed by the A.P. Administrative Tribunal in O.A. No. 6985 of 2006 dated 6.2.2007.

The O.A. was filed questioning the orders dated 18.11.2006 passed by the 1st respondent - Regional Director of Medical and Health Services, Rajahmundry transferring the 1st petitioner to Preliminary Health Centre, Chintalapadu, Krishna District and repatriating the 2nd petitioner to the office of the Commissioner, A.P. Vaidya Vidhana Parishad, Hyderabad. After hearing the learned counsel for the parties, the Tribunal dismissed the said I.A., against which the present writ petition is filed.

It has been argued before this Court by the learned counsel for the petitioners that though the allegations levelled against the petitioners were not proved and even though the report of the A.C.B. has been received, the 1st petitioner was transferred to a far off place and the 2nd petitioner was repatriated to his parent department and no posting orders have been given to him. The said action of the respondents is bad in law and therefore the impugned proceedings are liable to be set aside.

On the other hand, it is contended by the learned

Government Pleader for Services-I that as the disciplinary proceedings are pending against the 1st petitioner and the 2nd petitioner has been repatriated to his parent department on administrative grounds and as such the orders of transfer passed by the respondents cannot be said to be illegal and therefore the petitioners have no ground to question the said transfer orders.

The Tribunal having heard both the learned counsel for the parties and having perused the counter filed by the respondents has come to the conclusion that as the departmental proceedings are pending against the 1st petitioner, the 1st respondent has requested the 2nd respondent seeking permission to transfer the 1st petitioner for smooth administration. In pursuance of the same, the 2nd respondent – Director of Health vide proceedings dated 17.11.2006 directed the 2nd respondent – Regional Director of Medical and Health Services, Rajahmundry to transfer both the petitioners on administrative grounds to far off place from the present place of work. In pursuance of the same, separate proceedings were issued on 18.11.2006 where under the 1st petitioner was transferred to PHC, Chintalapadu, Krishna District and the 2nd petitioner was repatriated to his parent department. Having found that the case pertains to the transfer of employees and as the transfer was made on administrative grounds, the Tribunal declined to interfere with the impugned proceedings. The same contentions were sought to be raised before this Court also stating that the transfer and the repatriation were based on pseudonymous complaints and they were not proved. However, as rightly observed by the Tribunal, the impugned order of transfer and repatriation was not based on any pseudonymous or anonymous letter but on the report of the Regional Director vide his D.O. Letter dated 6.11.2006. It is to be

further noted that the 1st respondent sought permission of the 2nd respondent and the 1st respondent issued the proceedings dated 18.11.2006 against the petitioners only after seeking necessary permission from the 2nd respondent. The fact remains that in this case the disciplinary proceedings are still pending against the 1st petitioner and the 2nd petitioner was only on deputation and it is for the borrowing authority to repatriate the incumbent to the parent department whenever it chooses.

Under the above circumstances, we do not find any illegality or irregularity in the order passed by the Tribunal.

There is no merit in this writ petition. Hence it is dismissed at the stage of admission.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 05-06-2007.

MVB